

The Milan Town Board held their Regular Town Board Meeting on 02/18/2013 at 7:30 PM at the Milan Town Hall.

Present: Supervisor William Gallagher  
Councilpersons Jack Campisi, Roberta Egan, Jack Grumet, Marion Mathison

The Supervisor opened the meeting with the Pledge of Allegiance.

**PUBLIC COMMENT:**

Rene Schnetzler commended the Town Board for the excellent work in keeping the taxes down. He addressed the issue of changing the zoning law from 2500 SF to 4000SF for a convenience store. He felt that was a significant change. Mr. Schnetzler did not think that it was a good proposition; it is something that the Town Board should think of very carefully especially of the long term impact.

Debra Blalock, D. C. Legislator said that she wanted to respond to a question from Council. Campisi regarding the new formula for sales tax disbursement in 2014. As the County Executive said in State of County Address they are trying to come to an agreement with the Town of Poughkeepsie and the Town of Beekman. They have to work out an agreement with them first and then the rest of the agreement won't be too far behind. Council. Campisi also asked about the recording tax fee. Ms. Blalock said that nothing has gone on in Albany with that, and she was not sure if it was presented in Albany at all. She talked briefly about the Municipal consolidation shared services grant program. She said that the draft is on line, and they are fielding questions about it. The final draft will go out March 15 and the deadline for the application is June 28, 2013. Ms. Blalock continued to give an update on the legislative meeting. There was a brief question and answer period.

**MINUTES:** Special Meeting – Annual Accounting of Books/01/21/13- **MOTION** by Supervisor Gallagher seconded by Council. Egan to accept these minutes as written. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**MINUTES:** Regular Town Board Meeting/01/21/13 – **MOTION** by Supervisor Gallagher seconded by Council. Grumet to accept these minutes as written. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**CORRESPONDENCE:**

Letter dated February 8, 2013 from resident Evelyn Bartin regarding her concerns about the proposed Sunoco Station on Route 199 and the potential Zoning changes in parking requirements for business establishments on Route 199.

**BUSINESS:**

**MILAN FARMERS MARKET**

**MOTION** by Supervisor Gallagher seconded by Council. Egan to create the position of Milan Farm Market Manager at no salary, and further, to waive the vender's fee for said Farm Market Manger. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO -0

**MOTION** by Supervisor Gallagher seconded by Council. Egan to appoint Charles & Kim Godfrey as Farm Market Manager for 2013. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

**CABLEVISION UPDATE**

The Supervisor informed the board that there was a new rep for Milan and his name was Dan Ahouse. The Supervisor said that the latest two (2) areas completed and active include the following locations: Rt. 199 from the Taconic State Pkwy. to the Pine Plains border, South Road, North Road to Taconic, Cold Spring Road, North Knob Hill Road, and Hicks Hill Road. These areas will be release to the public next week. The Supervisor said that Cablevision will be marketing door to door to sign people up.

**SOLAR PANELS/TOWN HALL**

The Supervisor said that we as a town board have been looking for ways to save money. One of the fairly large expenses is the electric bill. Council. Campisi and Supervisor Gallagher have decided to look into Solar Panels for the Town Hall. The town received about 80% refund when we did the town garage, but he did not think that the town would get the same amount; he thought it would probably be about 35%, which would make the installation a lot more expensive. He said he would like the permission of the town board to have Council. Campisi and Supervisor Gallagher look into this. The panels would be located behind the town hall, along the tree line, minimizing the impact eye soar and giving us a southern exposure which is what you really need. Council. Mathison asked if it was still a NYSERDA grant. The Supervisor said that it was but the terms have changed. He wants to talk to someone from NYSERDA and find out definitely if the terms have changed.

**RESOLUTION # 63-2013 – Local Law # 1 of 2013 – Amending the Town of Milan Zoning Code with Respect to Section 200-5 – Definition for Convenience Store: Changing the maximum size of a convenience store from 2,500 SF to 4,000 SF in the Highway Business District only; and Table A – Schedule of Use Regulations, Drive-in Business: Add “B” to HB column (B=Type B Special Use Permit Required from Planning Board)**

Resolution offered by Council Campisi, seconded by Council Egan,

**WHEREAS**, Section 200-5, Definitions, defines a Convenience Store as “A business, containing less than 2,500 square feet of gross floor area, where food, tobacco, drugs, periodicals, beverages, snacks and similar convenience items are kept for retail sale. In the HB District only, either an automobile wash or the retail sale of gasoline or other petroleum products, or both, shall be specially permitted accessory uses requiring a Type B special use permit. The retail sale of gasoline or other petroleum products shall comply with the provisions

of Section 200-41 and Section 200-45 of this chapter. (Amended 5-9-2001 by L.L. No. 3-2001; 8-8-2005 by L.L. No. 3-2005; and

**WHEREAS**, under Section 200-14.1.C. Highway Business District Bulk and Area Regulations, “Principal permitted uses shall locate in existing structures or new structures with no more than a five-thousand-square-foot building footprint...” so the increase from 2,500 square feet to 4,000 square feet will allow a convenience store to be in harmony with other retail establishments in the Highway Business district; and

**WHEREAS**, limiting a convenience store to 2,500 square feet is no longer economically viable as the increased use of convenience stores with an automobile wash or the accessory use of the retail sale of gasoline or other petroleum products require additional interior square footage for ancillary, non-productive space, such as bathroom facilities, storage facilities, adequate circulation areas, recycling compliance and office area; and

**WHEREAS**, at their February 6, 2013 regular meeting, the Planning Board recommended the Town Board approve an amendment to the Zoning Code to increase the allowable size of a convenience store from 2,500 SF to 4,000 SF in a memo dated February 7, 2013; and

**WHEREAS**, Section 200-5 of the Zoning Code defines a Drive In Business as “An establishment which, by design, physical facilities, service or by packaging procedures, encourages or permits customers to receive services and obtain goods while remaining in their motor vehicles.” This definition was added in 2003 by L.L. #1 of 2003; and

**WHEREAS**, Section 200-25 of the Zoning Code states “Plans for the erection or structural alteration of drive-in business establishments as herein defined shall be submitted to the Planning Board for approval. The Planning Board shall require such changes therein in relation to yards, driveways, driveway entrances and exits and the location and height of buildings and enclosures as it may deem best suited to ensure safety, to minimize traffic hazards or difficulties and to safeguard adjacent properties.”; and

**WHEREAS**, Table A, Schedule of Use Regulations, of the Zoning Code prohibits a Drive-in business (excluding drive-in outdoor theater) in any zoning district in Town; and

**WHEREAS**, Based on the fact that there is a definition in the code and an actual section of the code that states the procedure one must follow if one desires to establish a Drive-in business, it appears there may have been an oversight in Table A; and

**WHEREAS**, at their November 14, 2012 regular meeting, the Planning Board recommended the Town Board approve an amendment to the Zoning Code to allow a Drive-in business in the Hamlet Zoning District and the Highway Business Zoning District with site plan approval from the Planning Board in a memo dated November 19, 2012; and

**WHEREAS**, the Town Board determines that, pursuant to SEQRA, the adoption of this proposed Zoning Code Change is a Type I action requiring the preparation of a Long Environmental Assessment Form and, finding that there are no other involved agencies, the Town Board hereby declares itself Lead Agency. A Long EAF has been prepared and, at such time as the Town Board has gathered all pertinent information, it will determine whether this action has the potential to have a significant impact on the environment.

**NOW, THEREFORE, BE IT RESOLVED**, The Town Board of the Town of Milan hereby acts as follows in consideration of the proposed enactment of a change to the Town Zoning Code:

**RESOLVED**, that the Town Board introduced Proposed Local Law No. 1 of the year 2013, “A Local Law of the Town of Milan, Dutchess County, New York, Amending Chapter 200, Zoning Code, of the Town of Milan, to change the maximum size of a convenience store from 2,500 SF to 4,000 SF in the Highway Business District only and to amend Table A, Schedule of Use Regulations, add “B” to HB column under Drive-in Business; and it is further

**RESOLVED** that the Town Board schedules a Public Hearing on this Proposed Local Law No. 1 of the year 2013 "A Local Law of the Town of Milan, Dutchess County, New York, Amending Chapter 200, Zoning Code, for March 18, 2013 at 7:15 P.M. and directs the Town Clerk to provide notice thereof not less than ten (10) calendar days prior to the Public Hearing in the Town's official newspaper, to post such notice on the Town's legal bulletin board and to provide notice to all neighboring municipalities; and it is further

**RESOLVED** that the Town Board further refers Proposed Local Law No. 1 of the year 2013, "A Local Law of the Town of Milan, Dutchess County, New York, Amending Chapter 200, Zoning Code, to Dutchess County Department of Planning and Development for review and advisory opinion pursuant to Section 239 of the General Municipal Law and Section 200-71 of the Milan Zoning Code. Roll was taken and adopted.

Roll:	Councilperson Campisi	Aye
	Councilperson Egan	Aye
	Councilperson Grumet	Aye
	Councilperson Mathison	Ay
	Supervisor Gallagher	Aye

#### **HIGHWAY DEPARTMENT LIGHTING**

**MOTION** by Supervisor Gallagher seconded by Council. Campisi to install new lighting at the Highway Garage partially paid for by a grant from Central Hudson who would absorb some of the cost. Discussion followed. The Supervisor said that Central Hudson approached the Highway Superintendent about changing the lighting at the garage which would mean more productivity. The employees would be able to see better while doing their work and it is also a safety issue. The reason for it is that the men would be able to do their work and to prevent accidents. The Supervisor said that the project cost is 6,399.00, the utilities incentive is \$1,356.97 and the net cost would be \$5,042.03. Council. Mathison said since the Highway crew has to operate at night in bad weather it seems that it would be a safety issue. Discussion continued. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

#### **Resolution 64 – 2013 SUPPORT FOR NYS-CONTACT INFORMATION FOR VACANT STRUCTURES**

Resolution offered by Supervisor Gallagher, seconded by Councilman Campisi the following was

**Resolved** to support New York State regarding the proposed laws concerning contact information for vacant structures.

**WHEREAS**, vacant, abandoned and foreclosed homes and structures have proliferated throughout New York State over the last five years; and

**WHEREAS**, vacant structures that are not maintained for months at a time degrade and depreciate the value of the vacant structure as well as the value of surrounding properties; and

**WHEREAS**, lending institutions that hold mortgages on said vacant structures do not always provide the contact information of a responsible party; and

**WHEREAS**, Assembly Bill A.88 and Assembly Bill A.824, currently pending, would make it mandatory for lending institutions to provide contact information of

responsible parties regarding vacant structures; and require good faith in obtaining a foreclosure; and

**WHEREAS**, the Town of Milan Town Board supports the passage of said Bills.

**NOW THEREFORE, BE IT RESOLVED** that the Town of Milan hereby supports the passage of said Bills and respectfully requests that the State Representatives who represents constituents in the Town of Milan support the passage of said Bills. Discussion followed. Council. Egan stated that she did some research and looked at the law and had a problem with the Assembly bill A.824. She said that it requires banks that don't own property to maintain property that is not yet theirs. Council. Egan felt that was unfair and that would be passed on to the consumer. She did not see any benefit to the consumer or the people who are in the foreclosure process; she preferred to vote on each bill separately. Council. Grumet said what he read was that the law was designed so that the banks don't let the buildings run down and they are accountable. He said what often happens is that the property goes into foreclosure, takes a long period of time and in that period of time the condition of the home deteriorates greatly which affects the neighborhood and community as a whole. Discussion continued.

**MOTION** by Council. Campisi seconded by Council. Mathison to amend the Resolution to allow a separate vote. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

To vote on Assembly Bill A.88 – Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

To vote on Assembly Bill A.824 Roll was taken and carried.

YES - 4 Campisi, Grumet, Mathison, Gallagher

NO – 1 Egan

## **APPOINTMENT**

### **RESOLUTION #65 – 2013 Appointment- William Mansfield/Custodian**

Resolution offered by Supervisor Gallagher seconded by Council. Campisi

**Whereas**, William Mansfield was called to active duty while employed as a part-time custodian by the Town of Milan; and

**Whereas**, he has completed his active duty service in Afghanistan and now desires to return to the position of part-time custodian with the Town of Milan; and

**Whereas**, the Town of Milan recognizes the employee's right to return to the position he held at the time the military service occurred;

**Now, Therefore**, the Milan Town Board hereby re-appoints William Mansfield to the position of part-time custodian, effective March 1, 2013, at an annual salary of \$9,498, prorated; and

**Further**, the Town Board extends its appreciation to Edward Burns for serving as custodian while William Mansfield was on active duty. Discussion followed. The board discussed the possibility of Mr. Mansfield using the time clock since all the other employees are using it. That would mean that he would be working for an hourly rate for a certain amount of hours. After further discussion the board decided on the following amendment to the motion.

**MOTION** by Council. Campisi seconded by Council. Egan to amend to strike the annual salary of \$9,498 and replace it with an hourly rate of \$20.29 for nine (9) hours per week. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

Roll was taken and adopted on the main resolution as amended.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

#### **PUBLIC COMMENT:**

Rene Schnetzler addressed the lighting issue at the town garage. He said that there are two ways to save money and that is solar panels and the other is LED lighting.

Russ Frehling spoke first on the issue of the lighting of the Highway Department. He felt that, as far as safety issue was concerned, since nothing has happened in years what makes the town think that something would happen now. He wondered why this wasn't done earlier. The other issue that was brought to his attention was that it seemed that one gas station was getting favored over another. He said when the one gas station asked for a larger building they had to get a variance and that was denied so they had to build two buildings in order to accommodate it. And now they are acting quickly with the other gas station to give them additional square footage; parking regulations etc., etc. He thought that this different approach to the same business might become a fiscal problem; they might sue the town. Mr. Frehling said that the town should be careful how they treat these gas stations.

Council. Campisi responded saying that he does not know about the denial because he was not on the Zoning Board or the Planning Board so he cannot speak to that issue. He reported that the Town Board had a request through the Planning Board for a change in the zoning law to benefit the Mobil station, which is in the motion that was made. The Town Board requested an opinion from the Planning Board concerning increasing the size of a convenience store. They favored that the increase. Council. Campisi said that the Town Board acted on the proposed changes. He could not see how that would show any favoritism from this board. On the third issue regarding parking in the front of the stores, there is nothing in the motion that says that. It was raised at the meeting, looked at and has not come up as a motion to go to the county and has not been sent forward to the Planning Board for their opinion so that is not part of this issue. Council. Campisi stated that the law says that you are allowed to have a 5,000SF building in HB but the Town Board only proposes 4,000SF. He said that there will be more discussion on it, and the board has not voted on it. The only thing that the board has done was act on their request.

Mr. Frehling said that he was only acting as a messenger. He felt that this was a legitimate concern. Should their perception be wrong then it's a good thing, should their perception be right then the town becomes vulnerable and that is the point he said he was trying to make.

Council. Mathison also responded adding that there is some misunderstanding that we can just automatically set laws, which of course is not the case. This is not a voting of the law; this was getting an issue on the table and responding to the Planning Board and the Zoning Board on two potential businesses.

Rene Schnetzler said that this will affect his property value, his way of life and the community. He felt that the town board is responsible for the entire community and the board cannot be favoring an individual applicant from out of town for their own financial benefit at the expense of the neighborhood around it.

#### **TRANSFERS**

**MOTION** by Council. Campisi seconded by Supervisor Gallagher to transfer \$8,245 from the Wilcox Interest Reserve Fund to the General Fund to pay the interest due February 15<sup>th</sup>, 2013 on the Town Hall bond. Roll was taken and carried.

YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher

NO – 0

**MOTION** by Council. Campisi seconded by Council. Egan to close out the Hurricane Irene Fund and transfer all of its funds to the Highway Fund. Roll was taken and carried.  
YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**MOTION** by Council. Campisi seconded by Council. Egan to authorize the Supervisor to transfer \$1,427.63 from 5132.4 (Garage) to 1620.4 (Buildings) in the 2012 town budget. Roll was taken and carried.  
YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**MOTION** by Council. Campisi seconded by Council. Egan to establish revenue account 2440A (Rental Other) as part of the 2013 town budget. Roll was taken and carried.  
YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**BILLS** – the bills were presented to the Board for their audit and review. **MOTION** by Council. Campisi seconded by Council. Egan to pay General Abstract # 15 Claims # 553 – 556, totaling \$3,825.73 – Highway Abstract # 15 Claims 201,202 & 203, totaling \$931.92 – General Abstract # 2 Claims 19 thru 56, totaling \$16,950.28 – Highway Abstract # 2 Claims 2 thru 17, totaling \$32,428.20 – Escrow Abstract # 2 Claim # 1, totaling \$ 1,298.25 and Capital Bridge Abstract #2 Claim # 2, totaling \$135.50. Roll was taken and carried.  
YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

**MOTION** by Supervisor Gallagher seconded by Council. Campisi to adjourn this meeting. (8:31 PM). Roll was taken and carried.  
YES - 5 Campisi, Egan, Grumet, Mathison, Gallagher  
NO – 0

Respectfully submitted,

Catherine Gill, Town Clerk